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HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R.NAYAK, C.J.
AND HON'BLE SHRI D.R.DESHMUKH, J.

MISCELLANEOUS APPEAL NO.726 OF 2006

Appellant (Non-Applicant No.3)	:		United India Insurance Company Limited, Divisional-Office No.-1, Sadar South Road, P.O. No.83 Nagpur-440001 (Insurer of the truck), Through : Its Divisional Manager, Divisional-Office-Korba, (C.G.)
	versus		
Respondents (Applicant)	:	1.	Hitesh Kumar Ratre S/o Shri Raja Ram Ratre, aged-23 years, Permanent address – Vill.-Jorha Dabari, P.O. Khamharia, District – Korba, at present – Radhika Vihar Sipat Road, Near Apolo Hospital, Chingrajpara near Sarkanda Police Station, Bilaspur (C.G.)
(Non-Applicant No.1)	:	2.	Dham Singh Uppal S/o–Shri N. Singh, R/o-D.O.No.1, Sarafa Chamber, In Front of Mount Road, Nagpur (Maharastra) (owner of the truck)
(Non-Applicant No.2)	:	3.	Daram Singh S/o-Maluk Singh, R/o-D.O.No.1, Sarafa Chamber, In Front of Mount Road, Nagpur (Maharastra) (Driver of the truck)
(Non-Applicant No.4)	:	4.	Keja Ram Bhardwaj S/o-Shri Jogi Ram, R/o-Vill. & P.O.-Lunda, District-Surguja (C.G.) (Owner of the Motor Cycle)
(Non-Applicant No.5)	:	5.	Oriental Insurance Company Limited, Branch Office Surguja (C.G.) (Insurer of Motor Cycle)

Present : Mr. Dashrath Gupta, learned counsel for the appellant.

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ORAL ORDER
(Passed on 18th of July, 2006)

The following oral order of the Court was passed by **S.R.NAYAK, C.J.** :

The Motor Accidents Claims Tribunal has apportioned actionable negligence on the part of the driver of the truck, insured by the appellant – Insurance Company, and the injured who was driving the motor cycle, in the ratio of 75:25. That finding of the Tribunal has been assailed in this appeal. Learned standing counsel for the appellant – Insurance Company contests the above finding of the Motor Accidents Claims Tribunal by submitting that the driver of the truck, insured by the appellant – Insurance Company, was not at all negligent in causing the accident. The submission of the learned counsel for the appellant – Insurance Company is not acceptable. The Motor Accidents Claims Tribunal, in paragraph 19 of the impugned award, has pointed out that the truck was parked on the side of the road but without any indicator and parking light and that was the main cause for causing the accident. The finding recorded by the Motor Accidents Claims Tribunal is, therefore, cannot be condemned as perverse and according to us, the actionable negligence is rightly apportioned between the driver of the truck, insured by the appellant – Insurance Company and the driver of the motor cycle, in the ratio of 75:25.

2. It was next contended that as per the medical certificate produced by the claimant, the permanent disability sustained by him would last only for a period of three years, that fact was not taken into account by the Motor Accidents Claims Tribunal in computing future loss of earning. It is stated that on the date of the accident, the claimant – injured was a student of M.Sc. Course, but, quite curiously the Motor Accidents Claims Tribunal has taken his monthly income only at the rate of Rs.3,000/- for assessing loss of future income. Since the said rate taken by the Motor Accidents Claims Tribunal having regard to the qualification

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and standing of the injured is very much on lower side, there is no good reason for us to interfere with the impugned award, because, in the totality of the circumstances, what has been awarded is a just and reasonable compensation within the contemplation of the Motor Vehicles Act, 1988. The appeal is devoid of merit and is accordingly dismissed.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

Gopal